

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

February 28, 2005

Michael J. Walsh, Jr., Esq.
O'Melveny & Myers LLP
1625 Eye Street, N.W.
Washington, D.C. 20006-4001

Re: PSA Airlines, Inc. Debtor-in-Possession
Pro Forma Assignment of Licenses
Fee Control No. 00000RROG-05-015

Dear Counsel:

This letter responds to your request (dated October 14, 2004) submitted on behalf of PSA Airlines, Inc., Debtor-in-Possession (PSA DIP) for a waiver of the application fees in connection with the pro forma assignment of wireless licenses used in its operations as a commercial airline. Our records reflect that you have not paid the filing fees associated with the pro forma application.

In your request, you recite that on September 12, 2004, US Airways Group, Inc. (US Airways Group) and four of its wholly-owned subsidiaries, including PSA Airlines, Inc. (PSA), filed for bankruptcy in the Eastern District of Virginia (Bankruptcy Court). You have provided us with PSA's petition for bankruptcy, dated September 12, 2004, to evidence this fact. You have also provided us with an "Order Granting Motion to Authorize the Debtors [including PSA] to Mail Initial Notices in Lieu of Submitting a Formatted Mailing Matrix" from the Bankruptcy Court dated September 13, 2004. You state that with the filing of the bankruptcy petition, the status of US Airways Group and its subsidiaries, including PSA, was converted to debtors-in-possession. You state that in connection with the bankruptcy filing, on October 12, 2004, PSA DIP filed an application for the pro forma assignment of wireless licenses from PSA to PSA DIP. You state that "[i]n the absence of a waiver, the parties will be required to pay a total of . . . \$210.00 for all Commission bankruptcy-related applications." You assert that a waiver of the filing fees associated with the pro forma assignment application should be granted in light of the bankruptcy filing.¹

¹ You also note that the Commission granted PSA DIP special temporary authority to operate the various wireless aircraft licenses at issue here.

Section 1.1117 of the Commission's rules, 47 C.F.R. §1.1117, provides that filing fees may be waived upon a showing of good cause and a finding that the public interest will be served thereby. *See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 5 FCC Rcd 3558, 3572-73 (1990). We find that PSA's bankruptcy filing substantiates its claim of financial hardship and demonstrates good cause for waiver of the filing fees. *See MobileMedia Corporation*, 14 FCC Rcd 8017, 8027 (1999) (bankruptcy establishes good cause for waiver of filing fee). Therefore, your request for waiver of the application filing fees in connection with PSA's application for the pro forma assignment of its wireless authorizations is granted.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

Mark A. Reger
Chief Financial Officer



O'MELVENY & MYERS LLP

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TOKYO

October 14, 2004

OUR FILE NUMBER
882,605-118

BY HAND DELIVERY**RECEIVED - FCC**

WRITER'S DIRECT DIAL
(202) 383-5280

Andrew S. Fischel
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

OCT 14 2004

Federal Communication Commission
Bureau/Office

WRITER'S E-MAIL ADDRESS
mwals@omm.com

Re: PSA Airlines, Inc., Debtor-in-Possession Petition for Waiver of
Application Fees Associated with Application File No. 0001898826

Dear Mr. Fishel:

On behalf of PSA Airlines, Inc., Debtor-in-Possession ("PSA DIP"), we hereby submit and original and four (4) copies of the enclosed amended petition requesting a waiver of the fee requirements of §§ 1.1102 and §1.1117(e) of the Commission's Rules. This amended petition is necessitated by an error in the fee reference found on page 3 of yesterday's filing in connection with File No. 0001898826. PSA DIP respectfully requests that this waiver request be reviewed in association with the above-referenced application.

It is respectfully requested that you stamp the receive date on the enclosed copy marked "Stamp and Return" and return it to us for our files. Please contact the undersigned should any questions arise concerning this submission.

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not 10/26

Sincerely,

Michael J. Walsh, Jr.
for O'MELVENY & MYERS LLP

Counsel to PSA Airlines, Inc., Debtor-in-
Possession

Enclosure

cc: Zenji Nakazawa (via email)

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of

**PSA AIRLINES, INC., DEBTOR-IN
POSSESSION**

File No. 0001898826

Petition for Waiver of §1.1102 of the
Commission's Rules in Connection with
Application Filing Fees Associated with *Pro
Forma* Applications for Involuntary Assignment
for Various Wireless Licenses Pursuant to
§1.1117 of the Commission's Rules

To: Office of Managing Director

**PETITION FOR
WAIVER OF APPLICATION FILING FEES**

PSA Airlines, Inc., Debtor-in-Possession ("Assignee"), pursuant to §1.1117 of the Federal Communications Commission's ("Commission") Rules and by its attorneys, hereby seeks a waiver of 47 C.F.R. §1.1102, which requires the payment of application filing fees in connection with the above referenced application for *pro forma*, involuntary assignment of licenses ("Application"). See **Exhibit 1**. The Application was necessitated by PSA Airlines, Inc.'s ("Licensee") September 12, 2004 bankruptcy filing which resulted in Assignee's Debtor-in-Possession status. Licensee holds various wireless licenses used in connection with its operations as a commercial airline.

I. THE BANKRUPTCY

US Airways Group, Inc., ("Parent") filed voluntary petition forms along with four of its wholly owned subsidiaries for bankruptcy in the United States Bankruptcy Court, Eastern District of Virginia on September 12, 2004.¹ With these filings, the legal status of Parent and its subsidiaries was converted to "debtors-in-possession." The subsidiaries (other than MSC) hold various aircraft, aviation radio-navigation, aviation auxiliary group, and land mobile licenses granted to them by the Commission in connection with their operations as commercial airlines. The parties have filed separate applications for special temporary authority to allow the debtor-in-possession entities to continue to operate the aircraft licenses, and the Commission has granted them.² The Application was filed on October 12, 2004 and has been assigned file number 0001898826.

II. THE SECTION 1.1117 WAIVER IS IN THE PUBLIC INTEREST

Assignee requests that it not be required to pay the application filing fees that are associated with the Application. Section 1.1117 of the Commission's Rules provides that application filing fees may be "waived or deferred in specific instances where good cause is shown and where waiver or deferral of the fee would promote the public interest." 47 C.F.R. §1.1117(a). The Commission has previously granted a similar waiver request by the Assignee in connection with Parent's August 2002 bankruptcy filing. See File No. 0001024985. Accordingly, Assignee requests relief under this provision of the Commission's Rules.

In Mobile Media Corporation, et al., Memorandum Opinion & Order, 14 FCC Rcd 8017,

¹ See *In re US Airways Group, Inc., et al., Debtors*, Chapter 11 Case No. 04-13819 (SSM), Hon. Stephen S. Mitchell, Jointly Administered, United States Bankruptcy Court, Eastern District of Virginia. The entities that filed bankruptcy documents that gave them Debtor-in-Possession status were (1) Parent, (2) Licensee (3) USAirways, Inc., ("USAirways"), and (4) Piedmont Airlines, Inc. ("Piedmont"), and (5) Material Services Company, Inc. ("MSC"). MSC does not hold any FCC licenses. The referenced filings in the United States Bankruptcy Court are attached to the Application.

² See File Nos. 0001895067, 0001895056, 0001895034.

8027 (1999) ("Mobile Media"), the Commission waived application filing fees under §1.1117 of its Rules associated with the reorganization of a bankrupt paging carrier solely on the fact that its bankruptcy status served as "good cause" for waiver of application filing fees. The Commission also held that "waiver of the fee will serve the public interest by enabling [the carrier] to preserve assets that will accrue to innocent creditors." *Id.* See also, *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year*, Memorandum Opinion & Order, 10 FCC Rcd 12759, 12762 (1995) ("evidence of bankruptcy or receivership sufficient to establish financial hardship for purposes of waiving of regulatory fees"); *In the Matter of Daniel R. Goodman, Receiver; Dr. Robert Chan, Petition for Waiver of Sections 90.633(c) and 1.1102 of the Commission's Rules*, Memorandum Opinion and Order, FCC 95-211 (rel. May 24, 1995).

In the present case, Assignee submits that the bankruptcy requires like treatment in the grant of the present waiver request. See *Melody Music, Inc. v. FCC*, 345 F.2d 730, 733 (D.C. Cir. 1965). As set forth above, Licensee has filed for Chapter 11 bankruptcy and has been awarded Debtor-in-Possession status. In the absence of a waiver, the parties will be required to pay a total of fifty-five dollars (\$55.00) for all Commission bankruptcy-related applications. This is another financial burden which, based on Commission precedent, should be avoided because of the bankruptcy, particularly because a *pro forma* transaction does not entail any real changes in control of the Licensee. As stated above, grant of this waiver would preserve funds better used to sustain operations and, as the Commission pointed out in *Mobile Media, supra*, this payment would direct monies from the innocent creditors whose claims are already compromised in the bankruptcy proceedings. Accordingly, Assignee requests grant of a waiver under §1.1117 of the Commission's Rules.

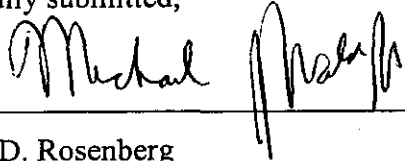
* * * *

III. CONCLUSION

For all of the foregoing reasons, Assignee respectfully requests that the Commission grant this petition for waiver of the fee requirements of §§ 1.1102 and 1.1117(e) of the Commission's Rules in connection with the Application.

Respectfully submitted,

By: _____


Todd D. Rosenberg
Michael J. Walsh, Jr.

Counsel to PSA Airlines, Inc., Debtor-In-Possession

Dated: October 14, 2004

O'Melveny & Myers, LLP
1625 Eye Street, N.W.
Washington, D.C. 20006-4001
Telephone: (202) 383-5300
Facsimile: (202) 383-5414

EXHIBIT 1

See attached application.

EXHIBIT 1

DESCRIPTION OF TRANSACTION

PSA Airlines, Inc., Debtor-in-Possession ("Assignee") hereby submits its application for *pro forma* assignment of the licenses issued to PSA Airlines, Inc. ("Licensee") by the Federal Communications Commission ("Commission") (the "Application"). As described below, the Application is filed in accordance with Section 1.948(c)(2) of the Commission's Rules, which requires that *pro forma* applications for assignment or transfer of control be filed when a licensee is subject to an involuntary change of ownership such as bankruptcy. As the Commission's Rules require that such applications be filed no later than 30 days after the event causing the involuntary assignment or transfer, the Application is timely filed.

US Airways Group, Inc., ("Parent") filed a petition for relief under Chapter 11 of Title 11 of the United States Code along with three of its wholly owned subsidiaries in the United States Bankruptcy Court, Eastern District of Virginia, on September 12, 2004.¹ With these filings, the legal status of each of Parent, Licensee, US Airways, and Piedmont (collectively, the "Subsidiaries") was converted to "Debtor-in-Possession." The Subsidiaries currently hold radio licenses granted to them by the Commission used in connection with their operations as commercial airlines.

The Applications are necessary under the Commission's Rules simply to reflect the *pro forma* change in the status of the Licensee to Debtor-in-Possession pursuant to federal bankruptcy law. The bankruptcy proceeding does not change the ownership or management of

¹ See *In re US Airways Group, Inc., et al., Debtors*, Chapter 11 Case No. 04-13819 (SSM), Hon. Stephen S. Mitchell, Jointly Administered, United States Bankruptcy Court, Eastern District of Virginia. The entities that filed bankruptcy documents that gave them Debtor-in-Possession status were (1) Parent, (2) Licensee (3) USAirways, Inc. ("USAirways"), (4) Piedmont Airlines, Inc. ("Piedmont"), and (5) Material Services Company, Inc. ("MSC"). MSC does not hold any FCC licenses.

the Licensee. This filing is made within 30 days of the September 12, 2004 bankruptcy filing and thus, it is timely filed pursuant to Section 1.948(c)(2).²

Pursuant to Section 1.1117 of the Commission's Rules, the parties are also filing a Petition for Waiver of Application Filing Fees & Deferral of Payment with the office of the Managing Director with respect to the application filing fees required in connection with the Application. A copy of the petition (which will be filed subsequently) is attached to the Application.

² The certifications made by Licensee and Assignee in the Application are qualified by the statements contained in this Exhibit 1 to the extent necessary.